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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**
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| 18 ORACLE AMERICA, INC., |) | Case No. 3:10-cv-03561 WHA |
| |) | |
| 19 Plaintiff, |) | DECLARATION OF NATHAN P. EIMER IN |
| 20 vs. |) | SUPPORT OF NON-PARTY LG |
| |) | ELECTRONICS, INC.'S RESPONSE TO |
| 21 GOOGLE INC., |) | COURT'S REQUEST FOR RESPONSE |
| |) | Dept.: Courtroom 8, 19 th Floor |
| 22 Defendant. |) | Judge: Honorable William Alsup |
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4 I, NATHAN P. EIMER, declare as follows:

5 1. I am a partner at EIMER STAHL LLP and counsel to Non-Party LG Electronics,
6 Inc. ("LG"). I am admitted to practice law in the Northern District of California *pro hac vice*. I
7 submit this declaration in support of Non-Party LG's Response to the Court's Request for a
8 Response (Dkt. No. 1490). Unless otherwise indicated I have knowledge of the facts set forth
9 herein based upon first-hand personal knowledge, a review of records, and discussion with LG
10 personnel and if called to testify as a witness thereto could do so competently under oath.

11 2. On January 7, 2016 (U.S.; *i.e.*, January 8 in Korea)¹, Mr. Sung Jin Kang of Non-
12 Party LG received notice from Ms. Meghan Landrum of Defendant Google Inc. ("Google") that
13 Google intended to produce in connection with this litigation certain LG documents in its
14 possession relating to the Android open source software stack. The notice further indicated that
15 certain "of these documents may contain your confidential information as defined by the documents
16 themselves and/or your Non-Disclosure Agreement(s) with Google." At the time, Google did not
17 enclose or identify the LG documents it intended to produce but offered to make the documents
18 subject to production "available for inspection during this 14 time period upon request." Finally,
19 the notice advised LG that it had 14 days to object to the production of documents and that if it
20 chose to object, it must timely file a motion for protective order. On information and belief, Mr.
21 Kang promptly forwarded Google's notice to LG's in-house counsel in Seoul, Korea. A true and
22 correct copy of the January 7, 2016 letter from Ms. Landrum to Mr. Kang is attached hereto as
23 Exhibit 1.

24 3. On January 11, 2016, Mr. Wayne Jeung, in-house counsel for LG in Korea, emailed
25 Reid Mullen of Keker & Van Nest LLP and Bruce Baber of King & Spalding, outside counsel for
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27 ¹ In January, Seoul, Korea is 17 hours ahead of San Francisco, CA. Unless otherwise indicated, the dates
28 provided are in Korea-time and so the date that emails were sent and received by and between counsel for Seoul and
counsel for Google may not always match up.

1 Google, requesting a copy of the “actual documents that Google intends to produce.” Further, Mr.
2 Jeung asked for “a copy of these documents as soon as possible,” in light of the 14-day timeframe
3 by which LG was being asked to respond. A true and correct copy of the January 11, 2016 email
4 from Mr. Jeung to Mr. Mullen and Mr. Baber is attached hereto as Exhibit 2.

5 4. On January 12, 2016, Mr. Mullen emailed Mr. Jeung and informed Mr. Jeung that
6 he would “gather the documents and send them to you shortly.” A true and correct copy of the
7 January 12, 2016 email from Mr. Mullen to Mr. Jeung is attached hereto as Exhibit 3.

8 5. On January 13, 2016, Mr. Jeung emailed Mr. Mullen and Mr. Baber expressing
9 concern that he had not yet received the requested documents. Mr. Jeung also asked Messrs.
10 Mullen and Baber to confirm that: (1) the 14-day deadline to object would not begin to run until
11 the date the documents were made available to LG; and (b) that Google would not produce any LG
12 documents to Oracle until LG was provided the opportunity to object pursuant to the terms of the
13 Court’s protective order. A true and correct copy of the January 13, 2016 email from Mr. Jeung to
14 Mr. Mullen and Mr. Baber is attached hereto as Exhibit 2.

15 6. On January 14, 2016, Mr. Mullen responded to Mr. Jeung’s email, thanking him for
16 “checking in” and stating he would provide the documents to LG “this week or early next.” A true
17 and correct copy of the January 14, 2016 email from Mr. Mullen to Mr. Jeung is attached hereto as
18 Exhibit 2.

19 7. On January 19, 2016, Mr. Jeung emailed Mr. Mullen asking again to be provided
20 with copies of the documents Google intended to produce and again for Google’s counsel to
21 confirm that the 14-day deadline would not begin to run until LG received the documents. A true
22 and correct copy of the January 19, 2016 email from Mr. Jeung to Mr. Mullen is attached hereto as
23 Exhibit 2.

24 8. On January 19, 2016, Mr. Baber emailed Mr. Jeung and informed him that “Google
25 is gathering the documents, and we will provide you with copies as soon as that process is
26 complete.” Mr. Baber also confirmed that the clock against LG would not begin to run until
27 Google provided the documents to LG. A true and correct copy of the January 19, 2016 email from
28 Mr. Baber to Mr. Jeung is attached hereto as Exhibit 2.

1 9. On January 26, 2016, Mr. Baber sent Mr. Jeung links to two FTP sites from which
2 Mr. Jeung was able to access all of the documents Google intends to produce to Oracle. A true and
3 correct copy of the January 26, 2016 email from Mr. Baber to Mr. Jeung is attached hereto as
4 Exhibit 4.

5 10. On January 27, 2016, Mr. Jeung emailed Mr. Baber asking whether the first twelve
6 documents provided on the FTP site had already been produced to Oracle since Mr. Jeung had
7 communicated with Mr. Mullen in December 2015 authorizing production of the same documents.
8 A true and correct copy of the January 27, 2016 email from Mr. Jeung to Mr. Baber is attached
9 hereto as Exhibit 4.

10 11. On January 28, 2016, Mr. Baber confirmed that the first 12 documents had been the
11 subject of the earlier notice. A true and correct copy of the January 28, 2016 email from Mr. Baber
12 to Mr. Jeung is attached hereto as Exhibit 4.

13 12. Upon receiving the documents on January 26, 2016, Mr. Jeung began identifying
14 and consulting with the many business unit stakeholders (including non-native English speakers)
15 about the documents. The business unit's judgment about the documents was then discussed with
16 LG's senior management and evaluated by LG's in-house counsel in light of the underlying
17 litigation, LG's other existing business relationships, and the business risks and expense of filing a
18 legal objection.

19 13. On the evening of February 5, 2016 (U.S.), LG retained Eimer Stahl to represent it
20 in connection with this matter. Shortly thereafter, we reviewed Google's January 7, 2016 notice
21 and communications between Mr. Jeung and Messrs. Mullen and Baber discussed in paragraphs 2–
22 11, above. Further, on the evening of February 5, 2016, we called two of Google's outside counsel
23 to inform them, via voice mail, that LG objected to the production of certain documents.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this 10th day of February 2016, at Chicago, Illinois.

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4 /s/ Nathan P. Eimer
5 Nathan P. Eimer
6 One of the Attorneys for Non-Party LG
7 Electronics, Inc.
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